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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,330	11/18/2003	Naoyuki Enjoji	TOW-050	8279
959	7590	05/30/2006		
LAHIVE & COCKFIELD 28 STATE STREET BOSTON, MA 02109			EXAMINER KALAFUT, STEPHEN J	
			ART UNIT	PAPER NUMBER
			1745	
DATE MAILED: 05/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,330

Applicant(s)

ENJOJI ET AL.

Examiner

Stephen J. Kalafut

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-10 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (<u>2 dates</u>). | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farkash *et al.* (US 6,686,080) in view of Wheat *et al.* (US 6,727,013).

Farkash *et al.* disclose a fuel cell stack (202) comprising a plurality of cells, each of which would include an electrolyte and two electrodes and separators therebetween, an electric heating mechanism (254) attached to an end plate (226) and thus above the outermost cell, and a load (column 3, lines 31-32), which would form a “power generation circuit”. The heating mechanism is connected to a power source (column 11, lines 52-54), which would be distinct from the fuel cell, and thus external. These claims differ by reciting a switch for selectively connecting the fuel cell stack to the load. Wheat *et al.* disclose a fuel cell system including switches (140, 142) that would connect or disconnect the fuel cell (102) from various loads, such as resistance heaters (136, 148). To enable the loads to be disconnected from the fuel cell, when they are not needed, or for safety reasons, it would be obvious to use switches as shown by Wheat *et al.* between the fuel cell and the load disclosed by Farkash *et al.* It would also be obvious to use a resistance heater as shown by Wheat *et al.* as part of the load of Farkash *et al.*, to prevent the freezing of water in an auxiliary tank used therewith.

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Claims 4-10 are allowed. The prior art cited either herein or by applicants does not disclose a method in which external electrical energy is used to heat one fuel cell in a stack thereof, which is then used to heat the next cell in a stack, and so on.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Edlund *et al.* (US 6,383,670) disclose a fuel cell with an electrical preheater for incoming hydrogen, which may be powered from an external source of electricity. Ernst *et al.* (US 6,489,048) and Mufford *et al.* (US 6,186,254) disclose fuel cell systems that include electrical resistance heaters.

The disclosure is objected to because of the following informalities: On page 18, lines 26 and 27, the numeral 64 is used to identify a “rotational load” and a “rotational road”. Appropriate correction is required.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk



STEPHEN J. LARO
PRIMARY EXAMINER
GROUP 1700